

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JULIE A. SU,*
Acting Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

INTRA-NATIONAL HOME CARE, LLC
and DILLI ADHIKARI,

Defendants.

Civil Action No. 2:21-cv-01391-DSC

Hon. Judge David S. Cercone

DEFENDANTS' NOTICE OF DECISION

Defendants submit this notice to inform the Court of the Supreme Court's recent decision to grant certiorari in *Loper Bright Enterprises et al. v. Gina Raimondo et al.*, No. 22-451. The question presented in that case—"Whether the court should overrule *Chevron v. Natural Resources Defense Council*, or at least clarify that statutory silence concerning controversial powers expressly but narrowly granted elsewhere in the statute does not constitute an ambiguity requiring deference to the agency"—is directly relevant to this case and provides further support to Defendants' request for a stay.

The core dispute here is the legality of the 2013 Department of Labor rule. 74 Fed. Reg. 60,454 (2013) ("the 2013 Rule"). As the Secretary has noted, the legal foundation of the 2013 Rule and her claims against Defendants is the 2013 Rule's assertion that its re-interpretation of the Fair Labor Standards Act exemptions at issue in this case is entitled to *Chevron* deference. 78 Fed. Reg. at 60,481–82. *See* ECF 83 at 4–5 (arguing that "*Chevron* deference was properly applied" by the D.C. Circuit to uphold the 2013 Rule, and that "*Chevron* ... applies in this case.").

* Acting Secretary of Labor Julie A. Su is automatically substituted for now-former Secretary Walsh as the named plaintiff pursuant to Federal Rule of Civil Procedure 25(d).

Defendants' primary argument for a stay here is that resolution of the first-filed action brought by Intra-National and two other home-care providers seeking to invalidate the 2013 Rule would simplify issues and promote judicial economy. ECF 68 at 8; ECF 77 at 3. That pre-enforcement challenge, *Intra-National Home Care et al. v. Department of Labor, et al.*, No. 2:20-cv-01545 (W.D. Pa.), is currently on appeal to the Third Circuit, initial briefing has been completed, and oral argument will likely be heard in the next few months.

The Supreme Court's decision to reconsider or narrow *Chevron* provides yet another—and even more weighty—basis for staying this case. *Loper Bright Enterprises* will address—and very likely resolve—the central legal dispute in this case. Courts in this circuit have often stayed cases pending a Supreme Court decision before. *E.g.*, *Am. Coll. of Obstetricians & Gynecologists, Pennsylvania Section v. Thornburgh*, 737 F.2d 283, 290 (3d Cir. 1984); *Stokes v. RealPage, Inc.*, 2016 WL 9711699, at *1 (E.D. Pa. Jan. 25, 2016); *Kamal v. J. Crew Group, Inc.*, 2015 WL 9480017, at *2 (D.N.J. Dec. 29, 2015); *Salvatore v. Microbilt Corp.*, 2015 WL 5008856, at *2 (M.D. Pa. Aug. 20, 2015); *Martin v. United States Dep't of Educ.*, 2012 WL 13222417, at *1 (M.D. Pa. Oct. 22, 2012); *Muhammad v. Delaware Title Loans, Inc.*, 2010 WL 11566061, at *4 (D.N.J. June 22, 2010). And Defendants' respectfully request that this Court do so here.

Respectfully submitted,

Dated: May 5, 2023

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